

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

WP(C).No. 20466 of 2006(J)

PETITIONER: COUNTER PETITIONER

HUSSAIN, AGED 30 YEARS,
S/O.MUHAMMEDALI, KOTTEKKADVEEDU, CHANTHAPADI,
MANNARKKAD.P.O, MANNARKKAD TALUK, PALAKKAD DIST.,
REP. BY POWER OF ATTORNEY AGENT: C.A.MUHAMMED,
KOTTEKKAD (H), NAYADIKKUNNU, MANNARKKAD.P.O,
MANNARKKAD TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.M.V.HARIDAS MENON

RESPONDENTS: PETITIONERS

1. SOUDHA, AGED 23 YEARS,
D/O.MUHAMMED, KUTTIKODAN VEEDU,
PERIMBADARI.P.O, MANARKKAD TALUK,
PALAKKAD DISTRICT.
2. SHAFEEK, (MINOR), AGED 6 YEARS,
S/O.SOUDHA, KUTTIKODAN VEEDU, PERIMBADARI.P.O,
MANNARKKAD TALUK, PALAKKAD DISTRICT,
REP. BY GUARDIAN SOUDHA.
3. SHAMEEM, (MINOR), AGED 3 YEARS,
S/O.SOUDHA, KUTTIKODAN VEEDU, PERIMBADARI.P.O,
MANNARKKAD TALUK, PALAKKAD DISTRICT,
REP. BY GUARDAN SOUDHA.

(2ND AND 3RD RESPONDENTS REPRESENTED BY GUARDIAN 1ST RESPONDENT)

BY ADV. SRI.BINDU SREEKUMAR
PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R.BASANT, J.

W.P.C.No.20466 of 2006

Dated this the 1st day of December 2007

J U D G M E N T

There is no representation for the petitioner. The learned counsel for the respondent prays for an early disposal of the case.

2. The petitioner is the counter petitioner in a claim under Section 125 Cr.P.C. Claimants are the wife and two children of the petitioner herein. Before the Family Court, the petitioner did not appear and his case was not prosecuted. The learned Judge of the Family Court proceeded to pass Annexure P2 order under which maintenance at the rate of Rs.650 per mensem was awarded to all the three claimants with effect from the date of the petition, that is 17/12/2005. Records show that it must be reckoned as an ex parte order.

2. No application was filed to set aside the ex parte order. No revision petition was filed against the said order. The petitioner has come to this court with this writ petition to set aside the order passed. On merits and also technically this petition is not maintainable. If the petitioner has a grievance

that he is wrongly set ex parte and the matter has been decided in his absence, he has to take steps to get the ex parte order set aside. In the alternative his remedy is only to challenge the impugned order in revision before this court. I find the writ petition filed by him without exhausting the alternative, remedies available to him to be absolutely unjustified. On merits also, the impugned order does not require any interference.

4. This writ petition is accordingly dismissed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007